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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS**

CHAD HANSEN,

Plaintiff,

v.

MEDICREDIT, INC.,

Defendant.

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Civil Action No.:

JURY TRIAL DEMANDED

COMPLAINT

CHAD HANSEN (“Plaintiff”), by and through his attorneys, KIMMEL & SILVERMAN, P.C., allege the following against MEDICREDIT, INC. (“Defendant”):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (“FDCPA”), the Texas Debt Collections Practices Act, Tex. Fin. Code Ann. § 392.301 *et seq.* (“TFDCPA”) and the Telephone Consumer Protection Act, 47 U.S.C. § 227 (“TCPA”) *et seq.*

JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United

1 States district court without regard to the amount in controversy,” and 28 U.S.C. §
2 1331, which grants this court original jurisdiction of all civil actions arising under
3 the laws of the United States.
4

5 3. Defendant conducts business in the State of Texas, and as such,
6 personal jurisdiction is established.
7

8 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).
9

10 **PARTIES**

11 5. Plaintiff is a natural person who resides in Corpus Christi, Texas
12 78407.
13

14 6. Plaintiff is a “consumer” as that term is defined by 15
15 U.S.C. §1692a(3) and Tex. Fin. Code Ann. § 392.001(1).
16

17 7. Plaintiff is a “person” as that term is defined by 47 U.S.C. §153(39).
18

19 8. Defendant is a national debt collection company with headquarters
20 located at 3 Cityplace Drive, Suite 690, St. Louis, Missouri 63141.
21

22 9. Defendant is a “debt collector” as that term is defined by 15
23 U.S.C. §1692a(6) Tex. Fin. Code Ann. § 392.001(6), and, Defendant attempted to
24 collect a “debt” as defined by 15 U.S.C. §1692(a)(5) and Tex. Fin. Code Ann. §
25 392.001(2).
26

27 10. Defendant is a “person” as that term is defined by 47 U.S.C.
28 §153(39).

1 11. Defendant acted through its agents, employees, officers, members,
2 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
3 representatives, and insurers.
4

5 **FACTUAL ALLEGATIONS**
6

7 12. Plaintiff has a cellular telephone.

8 13. Plaintiff has only used this phone as a cellular telephone.

9 14. Beginning in or around late September or early October 2016 and
10 continuing through December 2016, Defendant placed repeated harassing
11 telephone calls to Plaintiff its attempts to collect an alleged medical debt from
12 Christus Spohn Hospital that was incurred primarily for personal, family or
13 household purposes.
14

15 15. Defendant's calls originated from the numbers including, but not
16 limited to: (800) 823-2318. The undersigned has confirmed that this number
17 belongs to Defendant.
18

19 16. During this time, Plaintiff received automated calls that began with a
20 pre-recorded voice before speaking to Defendant's collectors.
21

22 17. Desiring to stop the calls, Plaintiff spoke with Defendant on or about
23 the second call in September or October and requested that Defendant stop calling
24 him regarding this alleged medical debt.
25
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1 18. Once Defendant was told the calls were unwanted and to stop, there
2 was no lawful purpose to making further calls, nor was there any good faith
3 reason to place further calls.
4

5 19. Further, any continued calls could only have been for the purpose of
6 harassing Plaintiff.
7

8 20. However, Defendant ignored Plaintiff's request and continued to call
9 Plaintiff repeatedly through December 2016.
10

11 21. These calls were frustrating and aggravating for Plaintiff to endure,
12 particularly since Defendant would contact Plaintiff while at work.
13

14 22. After Plaintiff's request to stop calling was ignored by Defendant,
15 Plaintiff took necessary measures to block calls from Defendant's phone number.
16
17

18 **COUNT I**
19 **DEFENDANT VIOLATED §§ 1692d and d(5) OF THE FDCPA**

20 23. A debt collector violates § 1692d of the FDCPA by engaging in
21 conduct the natural consequence of which is to harass, oppress, or abuse any
22 person in connection with the collection of a debt.
23

24 24. A debt collector violates § 1692d(5) of the FDCPA by causing a
25 telephone to ring or engaging any person in telephone conversation repeatedly or
26 continuously with the intent to annoy, abuse, or harass any person at the called
27 number.
28

1 25. Defendant violated §§ 1692d and d(5) when it placed repeated
2 harassing telephone calls to Plaintiff and continued to call Plaintiff after it knew
3 its calls were unwanted.
4

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7 **COUNT II**
8 **DEFENDANT VIOLATED § 392.302(4) OF THE TFDCPA**

9 26. A debt collector violates § 392.302(4) of the TFDCPA by causing a
10 telephone to ring repeatedly or continuously, or making repeated or continuous
11 telephone calls, with the intent to harass a person at the called number.
12

13 27. Defendant violated § 392.302(4) of the Texas FDCPA when it
14 placed repeated harassing telephone calls to Plaintiff and continued to call
15 Plaintiff after it knew its calls were unwanted.
16

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19 **COUNT III**
20 **DEFENDANT VIOLATED THE TCPA**

21 28. Plaintiff incorporates the forgoing paragraphs as though the same
22 were set forth at length herein.
23

24 29. Defendant initiated automated calls to Plaintiff using an automatic
25 telephone dialing system.
26

27 30. Defendant's calls to Plaintiff were not made for emergency purposes.
28

1 31. Defendant's calls to Plaintiff, on and after September or October
2 2016, were not made with Plaintiff's prior express consent.
3

4 32. Defendant's acts as described above were done with malicious,
5 intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights
6 under the law and with the purpose of harassing Plaintiff.
7

8 33. The acts and/or omissions of Defendant were done unfairly,
9 unlawfully, intentionally, deceptively and fraudulently and absent bona fide error,
10 lawful right, legal defense, legal justification or legal excuse.
11

12 34. As a result of the above violations of the TCPA, Plaintiff has
13 suffered the losses and damages as set forth above entitling Plaintiff to an award
14 of statutory, actual and trebles damages.
15
16

17 WHEREFORE, Plaintiff, CHAD HANSEN, respectfully prays for a
18 judgment as follows:
19

- 20 a. All actual damages suffered pursuant to 15 U.S.C. §
21 1692k(a)(1);
22
- 23 b. Statutory damages of \$1,000.00 for the violation of the
24 FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);
25
- 26 d. All reasonable attorneys' fees, witness fees, court costs and
27 other litigation costs incurred by Plaintiff pursuant to 15
28 U.S.C. § 1693k(a)(3) and Tex. Fin. Code § 392.403(b);

- e. Statutory damages of \$500.00 for each violation of the TCPA,
pursuant to 47 U.S.C. §227(c)(5)(B);
- f. Treble damages of \$1,500.00 per violative telephone call
pursuant to 47 U.S.C. §227(b)(3);
- g. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3)
- h. Any other relief deemed appropriate by this Honorable Court.

RESPECTFULLY SUBMITTED,

Dated: January 6, 2017

KIMMEL & SILVERMAN, P.C.

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